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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,124	10/27/2003	John Collins Dyer	9393	2552

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EXAMINER

HILL, LAURA C

ART UNIT PAPER NUMBER

3761

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/694,124

Applicant(s)

DYER ET AL.

Examiner

Laura C. Hill

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/27/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Tampon with Varying Capillary Pressure for Enhanced Leakage Protection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor et al. (US 6,258,075; herein 'Taylor'). Regarding claim 1 Taylor discloses tampon 20 for use in the vaginal canal (column 5, lines 8-10 and column 10, lines 1-4) comprising: primary absorbent member 21 having insertion end 30 and withdrawal end 34 (column 5, lines 45-47); a mass of secondary absorbent material 60 proximate withdrawal end 34 of primary member 21 (column 5, lines 60-63 and figure 4); wherein a density/capillary gradient in the mass of secondary absorbent material creates a pressure lower than the pressure in the primary absorbent material to provide a driving force to direct fluid toward the primary absorbent member 21 (column 12, lines 15-37 and figure 4).

Regarding claims 2-3 Taylor discloses withdrawal cord/mechanism 48 joined to primary absorbent member 21, extending beyond the withdrawal end 34 and secondary absorbent material 60 axially centered about withdrawal cord 48 (column 7, lines 31-36, column 9, lines 16-21 and figures 1 and 4), said secondary absorbent material 60 also joined to withdrawal cord 48 (figure 1).

Regarding claim 4 Taylor discloses secondary absorbent material 60 is joined to withdrawal end 34 of primary absorbent member 21 (figure 1).

Regarding claim 5 Taylor discloses gap 55 between withdrawal end 34 of primary absorbent member and uppermost part of the mass of secondary absorbent material 60 (column 9, lines 26-33).

Regarding claim 6 Taylor discloses mass of secondary absorbent material 60 comprises a plurality of discrete layers 81 (column 11, lines 15-26 and figure 2).

Regarding claims 7 and 9-10 Taylor discloses primary absorbent member 21 has a greater mass, absorbent capacity and diameter than the secondary absorbent material 60 (column 11, lines 35-52 and figures 1 and 4).

Regarding claim 8 Taylor discloses secondary absorbent material comprises a non-woven web (column 6, line 51-column 7, line 8).

Regarding claim 11 Taylor discloses primary absorbent member 21 is compressed to a cylindrical form (figures 1 and 4-5).

3. Claims 1-4, 7 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Glassman (US 5,047,024; herein 'Glassman'). Regarding claims 1 and 4 Glassman discloses a tampon with the top one-half portion/primary absorbent material 16

Art Unit: 3761

compressed more than the joined bottom half/secondary absorbent material 17 due to the extra volume of material in the top half and therefore the primary absorbent material 16 has a higher capillary pressure than the secondary absorbent material 17 since capillary pressure is proportional to density (column 3, lines 1-5, column 4, lines 58-68, figures 3A, 3B and 4).

Regarding claims 2-3 Glassman discloses pull string/withdrawal mechanism 19 attached to primary absorbent material 16 and extending beyond a withdrawal end, wherein secondary absorbent material 17 is centered axially about and joined to pull string (column 6, lines 51-63, figure 4).

Regarding claims 7 and 9-10 Glassman discloses primary absorbent member 16 has a greater mass, diameter and therefore greater absorbent capacity than secondary absorbent member 17 since absorbent capacity is proportional to size and diameter (figure 3A).

Regarding claim 11 Glassman discloses primary absorbent member is compressed to a cylindrical form (figure 5).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Taylor (US 6,599,279) is cited for showing tampon 20 with secondary absorbent material 60 capillary gradient less than, greater than or equal to primary absorbent member 21. Messing (US 3,854,481) is cited for showing tampon with secondary absorbent material 29a proximate insertion end that is less dense than first absorbent material 29. Poncy et al. (US 4,027,673) is cited for showing tampon with

Art Unit: 3761

non-compressible absorbent core/primary absorbent material 11 and polyurethane foam jacket/ second absorbent material 13 proximate withdrawal end but does not expressly disclose a relationship of the capillary pressure of the two materials.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura C. Hill  
Examiner  
Art Unit 3761

LCH



**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**

